BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

MARLENE PEEK)
Claimant)
VS.)
) Docket No. 239,544
KEY PRINT)
Respondent)
AND)
CONTINENTAL MESTERNING CO)
CONTINENTAL WESTERN INS. CO.)
Insurance Carrier	

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Pamela J. Fuller. The Order denied claimant's request for medical treatment for carpal tunnel syndrome.

ISSUES

Although the ALJ did not state the reason she denied claimant's request for medical treatment, the parties have, in their briefs, addressed only the question of whether claimant's carpal tunnel condition arose out of and in the course of her employment with respondent or, instead, arose out of claimant's work with her subsequent employer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Order should be affirmed.

Claimant was injured on April 11, 1998, when she fell while getting a box of paper for a customer. She lost her balance and fell on her right shoulder, right hip, and right side. Claimant testified that, in addition to problems with her right shoulder and arm, she felt numbness and tingling in her right hand.

Sometime in late May, apparently either the 21st or the 25th, claimant testified she terminated her employment with respondent and began working as a checker, and occasionally in the bakery and in the meat department, for Dillons. In the bakery, she made sandwiches, made garlic bread, and put bread on the shelves. In the meat department, she

wrapped meat. As a checker, which was the majority of her work, she scanned products across the scanner with her left arm, using her right hand for the key pad.

The Board concludes claimant has not proven the carpal tunnel arose out of and in the course of her employment for respondent. Although she now testifies she began having symptoms in her hands a few days after the fall, she did not mention her hands in her initial conversations with her employer or the healthcare providers. She first treated with Dr. Scott Fischer, a chiropractor, beginning May 12, 1998. Initial complaints to Dr. Fischer were of pain in the right elbow, right shoulder, upper back, and left side of the neck. The first notation of numbness in the hands in Dr. Fischer's records is in the notes from the visit of May 29, 1998. This was after she started working for Dillons. When claimant filed this claim in December 1998, she signed an E-1 form alleging injury only to her shoulder. In addition, claimant's description of the accident does not mention trauma to the hand or wrist. Finally, the record contains no medical opinion on the cause of claimant's carpal tunnel complaints. For these combined reasons, the Board agrees with and affirms the decision of the ALJ to deny treatment for the alleged carpal tunnel condition.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Pamela J. Fuller on September 21, 2000, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this	dav	of Nov	vember	2000.

BOARD MEMBER

c: Stanley R. Ausemus, Emporia, KS
James M. McVay, Great Bend, KS
Pamela J. Fuller, Administrative Law Judge
Philip S. Harness, Director